

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DIANA C. HUNDLEY,

Plaintiff,

v.

Case No. 06-14906

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Honorable Arthur J. Tarnow

Defendant.

Magistrate Judge Donald A. Scheer

**ORDER DENYING PLAINTIFF'S OBJECTION [16];
ADOPTING REPORT AND RECOMMENDATION [15];
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [14];
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [9]**

Before the Court are plaintiff's objections to the report and recommendation entered by Magistrate Judge Scheer.

Plaintiff's last objection to the report and recommendation stated that "even [if one is] willing to accept the Magistrate Judge's opinion, [the case] should be remanded for a Partially Favorable Decision as his conclusions lead to a finding of disability upon Plaintiff's 50th birthday." However, even if the court remanded this case to the ALJ, the Grid guidelines would still render Hundley disabled, as she would be subject to Rule 202.14. *See Table No. 2, Appendix 2 to Subpart P of Part 404; 20 C.F.R. § 404.1563(d)* (someone, like Hundley, between 50 and 54 years old is in the category of a "person closely approaching advanced age").

Only if Hundley were of advanced age – 55 years or older – would the Grids say that she is disabled. Rule 202.06.

Hundley does not present a borderline case, because she is not within the upper limit of her age category. She is 51 years old now, and will reach the next age category when she is 55.

Therefore, having reviewed the file, the report and recommendation, and the plaintiff's objections, the Court ADOPTS the report and recommendation as the findings and conclusions of the Court. Accordingly, defendant's

motion for summary judgment is GRANTED, and plaintiff's motion for summary judgment is DENIED.

SO ORDERED.

S/ARTHUR J. TARNOW

Arthur J. Tarnow
United States District Judge

Dated: February 28, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 28, 2008, by electronic and/or ordinary mail.

S/V. Sims for THERESA E. TAYLOR

Case Manager